

## REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

New claims 30-35 have been added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-35 are now pending in this application.

### Rejections under 35 U.S.C. § 103

Claims 1-6, 8, 10-19, and 21-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pub. No. 2002/0066553 to Fischer *et al.* (hereafter "Fischer") in view of U.S. Patent No. 6,374,911 to Olson *et al.* (hereafter "Olson"). This rejection is respectfully traversed.

Fischer discloses a heat exchanger, in particular an evaporator for a vehicle air-conditioning system. See paragraph 0016 of Fischer. An evaporator is configured to process at least a liquid phase and a gas phase. As noted on page 3 of the Office Action, Fischer does not disclose a charge-air cooler, as recited in claim 1. The evaporator of Fischer would also have a different configuration with different dimensions than a charge air cooler in order to process the different phases and conditions, such as pressure, that a charge-air cooler would not have to process.

Olson discloses a charge air cooler that includes opposed tanks 10 and 12 with charge air ports 14 and 16 and elongated, flattened tubes 22. See Olson at col. 3, line 66, to col. 4, line 35. The Office also argues on page 3 of the Office Action that Olson discloses a longitudinal bead in Figure 1 of Olson. Applicant respectfully disagrees. Olson does not disclose or suggest a longitudinal bead, nor is such a longitudinal bead shown or suggested in Figure 1. Applicant notes that the Office does not point out or reference any particular structure that demonstrates or suggests such a longitudinal bead in Figure 1 of Olson.

Applicant further notes that the Office states on page 4 of the Office Action that Fischer and Olson do not disclose or suggest the longitudinal bead of claim 9.

It would not have been obvious to one of ordinary skill in the art to modify the device of Fischer by the teachings of Olson because it would render the device of Fischer unsuitable for its intended use as a heat exchanger, particularly an evaporator. See M.P.E.P. § 2143.01, Part V. If the heat exchanger of Fischer were modified by the teachings of Olson to be used to cool charge air, as argued by the Office on page 3 of the Office Action, the resulting device would no longer be suitable as a heat exchanger, particularly an evaporator that processes at least a liquid phase and a gas phase, as disclosed by Fischer. Thus, one of ordinary skill in the art would not have modified the heat exchanger of Fischer into a charge air cooler, as argued by the Office.

Furthermore, Fischer and Olson disclose devices that are very different in their uses. For example, the devices of Fischer and Olson involve different dimensions for processing different phases under different conditions. As noted by the Office on page 3 of the Office Action, a modification of the device of Fischer would require a change in proportion. Because of these differences in the devices of Fischer and Olson, one of ordinary skill in the art would not have looked to the teachings of Olson when considering modifications to the device of Fischer.

For at least the reasons discussed above, reconsideration and withdrawal of this rejection is respectfully requested.

Claims 7 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fischer in view of Olson, and further in view of DE 1995785 to Heine (hereafter "Heine"). This rejection is respectfully traversed. Heine fails to remedy the deficiencies of Fischer and Olson discussed above in regard to independent claim 1, from which claims 7 and 20 depend. Reconsideration and withdrawal of this rejection is respectfully requested.

Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Fischer in view of Olson, and further in view of U.S. Patent No. 2,793,510 to Komroff *et al.* (hereafter "Komroff"). This rejection is respectfully traversed.

The Office notes on page 4 of the Office Action that Fischer and Olson do not disclose or suggest the longitudinal bead of claim 9. The Office further argues on page 4 of

the Office Action that Komroff discloses a heat exchanger structure that includes a longitudinal bead, citing the guide 33 disclosed by Komroff.

Komroff discloses a condensate disposal device with a guide for propelling condensate upwards from a sump 32 via grooves 34 on the guide 33. See Komroff at col. 3, lines 12-26. Komroff discloses that lands 38 between the grooves 34 taper or include outwardly from the arcuate face of the guide 33. See Komroff at col. 3, lines 20-26. However, Komroff does not disclose or suggest longitudinal bead formed in a cover of a header box of a charge air cooler, as recited in claim 9. Therefore, the teachings of Komroff do not remedy the deficiencies of Fischer and Olson.

The Office argues on pages 4-5 of the Office Action that it would have been obvious to modify the device of Fischer and Olson by the teachings of Komroff “to provide smoother fluid flow.” However, the guide 33 of Komroff is used for a condensate, not charge air, which flows through a header box of a charge air cooler. The Office does not clearly argue how the structure of a grooved guide for condensate could be used provide smoother flow for charge air in a header box. Applicant respectfully submits that one of ordinary skill in the art would not have looked to the teachings of Komroff when considering a modification to the device of Fischer and/or Olson because of the manifest differences in the structures and uses of these devices. Thus, one of ordinary skill in the art would not have made the combination argued by the Office.

For at least the reasons discussed above, reconsideration and withdrawal of this rejection is respectfully requested.

#### **New Claims**

New claims 30-35 have been added. Claims 30-33 depend from claim 1 and claims 34 and 35 depend from claim 9. Claims 30-35 are allowable over the prior art for at least the reasons discussed above and for their respective additional recitations.

#### **Conclusion**

Applicant submits that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 11/7/08

By P.D.S.

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 672-5540  
Facsimile: (202) 672-5399

Paul D. Strain  
Attorney for Applicant  
Registration No. 47,369